

RULE AGENDA/BOARD ACTION CHECKLIST

(Prepared pursuant to
s. 227.135(1), Stats.)

Air Management

Bureau

Natural Resources
Board Order Number

☒ Original

May 26, 2005

Date

☐ Amended

Date

(If Applicable)

1. Subject of the administrative code action/nature of board action.

Revision of the state mercury rule requirements in ch. NR 446, Wis. Adm. Code to be consistent with the federal Clean Air Mercury Rule (CAMR). Related revisions to chs. NR 400, 406, 408, 439, 440 and 484 may also be required. Amendments to other chapters may be necessary if determined to be germane and appropriate to accomplish the action described above.

2. Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue.

It is anticipated that there will be a high level of interest in this rule revision since the mercury reduction requirements in the state rule will be changed to meet less restrictive requirements in the CAMR. Key interested parties would include industry, electric utilities, public health officials, environmental groups, fishing groups, and lake associations. The CAMR allows states the flexibility to determine how to achieve the required mercury reductions including whether to join the national trading program that would allow interstate trading of mercury allowances. In addition, each state must determine how to allocate the mercury budget that USEPA established to the affected utility units and companies. These are the policy issues that need to be resolved.

3. Does rule/board action represent a change from past policy?
Explain the facts that necessitate the proposed change.

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Yes

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No

On October 1, 2004, Wisconsin began implementing requirements to reduce mercury emissions from coal-fired boilers operated by major electric utilities in the state. These requirements are included in ch. NR 446, Control of Mercury Emissions, Wis. Adm. Code. The reduction requirements and compliance schedule in the state rule are more restrictive than the CAMR. Although states are not prohibited from having more stringent requirements than CAMR, the state rule requires revision to reflect federal requirements within eighteen (18) months of the promulgation of federal mercury standard, which occurred on May 18, 2005. This would include adoption of the federal emission limitations as well as administrative requirements such as monitoring, reporting and recordkeeping.

4. Does rule/board action represent an opportunity for pollution prevention and/or waste minimization?

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Yes

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Unsure. Will consult with the Bureau's pollution prevention expert(s) and/or the Bureau of Cooperative Environmental Assistance.

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No. Adoption of federal requirements that do not include or allow for pollution prevention.

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No. Other reason (explain):

5. Who will participate in board action/rule development, and what is the anticipated time commitment?

	Name of Person Responsible	Time Before Hearing	Time After Hearing	Acknowledgement
a. Drafting bureau	Jon Heinrich	120	80	
b. Legal Services	Michael Scott	40	40	
c. Env. Analysis/Liaison (SS)	Jim Pardee	1	1	
d. Management & Budget	Lance Potter	1	1	
e. Other Department staff	Bob Eckdale	40	40	
f. Recommended Public Participation: It is recommended that at least two public information meetings be conducted to obtain input on the allocation of the mercury allowance and participation in the national trading program before hearing authorization is requested.				

6. Which federal statute, regulation, state statute or judicial decision is the authority for the proposed rule/board action?

- a. ☒ The proposed rule/board action conforms to and does not exceed requirements of a federal or state statute or controlling judicial decision.
- b. ☐ The proposed rule/board action exceeds the minimum requirements of a federal or state statute or controlling judicial decision.
- c. ☐ The proposed rule/board action is based on general authorization that requires rule making, but contains no specific standards.
- d. ☐ The proposed rule/board action is based on a general authorization, with no specific direction that rules must be developed.

Bureau of Legal Services

7. Proposed schedule (Fill in blanks applicable)

- a. Month of green sheet for requesting authorization for hearing or briefing on proposed board action: January 2006
- b. Hearing(s) - Number: Two
Date(s): March 2006
Location(s): Madison and Rhinelander
- c. Rule adoption or action by Board: May 2006
- d. Anticipated timing of Legislative review - Start: June 2006
End: July 2006
- e. Anticipated effective date: October 2006
- Initials of Bureau Director
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FOR DIVISION ADMINISTRATOR'S USE

8a. Recommendation to Secretary	<input type="checkbox"/>	Approved	<input type="checkbox"/>	Approved as amended	<input type="checkbox"/>	Disapproved
b. Other Board actions	<input type="checkbox"/>	Approved	<input type="checkbox"/>	Approved as amended	<input type="checkbox"/>	Disapproved

Division Administrator's Signature	Date Signed
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9. Secretary's approval required before drafting begins.

Drafting ☐ may proceed on rule or action.

☐ may not

Secretary's Approval

Date Approved

Completed original to be filed with the Bureau of Legal Services.